

ROY HENDERSON,
Plaintiff,
v.
UNITED STATES OF AMERICA,
Defendant.

This matter is before me on movant's motion to vacate, set aside, or correct sentence pursuant to 28 U.S.C. § 2255. Movant seeks to vacate this Court's June 29, 2006, Judgment sentencing him to an aggregate sentence of 182 months' imprisonment. Movant claims that he has newly discovered evidence regarding the police officers' misconduct leading to his arrest.

(1) newly discovered evidence that, if proven and viewed in light of the evidence as a whole, would be sufficient to

establish by clear and convincing evidence that no reasonable factfinder would have found the movant guilty of the offense; or

(2) a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable.


The instant § 2255 motion is successive. Additionally, movant has not received certification from the United States Court of Appeals for the Eighth Circuit to file the instant § 2255 motion. As a result, I am without authority to entertain the motion, and I will dismiss it without prejudice. If movant wishes to pursue this action, he must do so in the United States Court of Appeals for the Eighth Circuit.

Accordingly,

IT IS HEREBY ORDERED that movant's motion to vacate, set aside, or correct sentence pursuant to 28 U.S.C. § 2255 is **DISMISSED** without prejudice.

An Order of Dismissal will accompany this Memorandum and Order.

Dated this 4th day of November, 2009.



CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE